

Remarks/Arguments

Applicants have received and carefully reviewed the Final Office Action of August 27, 2008. Currently, claims 1-3 and 5-20 remain pending. Claims 1, 10, and 16 have been amended. Claims 17 and 18 were cancelled. No amendments are presented herein, so consideration of this Response is respectfully requested. This paper is being filed with a Request for Continued Examination.

Amendment to Drawings

Figures 1-10 have been replaced with higher quality drawings of the same embodiments. No new matter was introduced in the replacement drawings.

35 U.S.C. §103 (a) Rejections

Claims 1-3, 5-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Strecker* (U.S. Patent 6,416,522) in view of *Hlavka et al.* (U.S. Patent Application 2004/0172046). Applicants respectfully traverse this rejection. However, in order to advance prosecution in this case, Applicants have amended independent claim 1. Claim 1 now recites a fixation system for fixing an implantable device in a body cavity comprising delivery members having a longitudinal slot communicating with an exterior of the delivery member and extending a length of the delivery channel, wherein a tether passes through the longitudinal slot of the delivery members. Neither *Strecker* nor *Hlavka et al.* appear to disclose a longitudinal slot designed to receive a tether joining a pair of fixation members. This feature is greatly advantageous because it allows the movement of the tethered fixation members within the channels of multiple delivery members. Consequently, Applicants respectfully assert that amended claim 1 is patentable over *Strecker* in view of *Hlavka et al.* Accordingly, since claims 2, 3, and 5-9 depends from claim 1, Applicants believe these claims are also patentable over the cited references.

In paragraph four of the Office Action the Examiner rejects claims 10-15 under 35 U.S.C. §103(a) as being unpatentable over *Strecker* in view of *Miller* (WO 02/17797) and further in view of *Hlavka et al.* Applicants traverse this rejection. Nevertheless, to move prosecution in this case Applicants have amended claim 10. Independent claim 10

now recites a fixation system for use in a body cavity, comprising delivery members having a longitudinal slot communicating with an exterior of the delivery member and extending a length of the delivery channel, wherein the tether passes through the longitudinal slot of the delivery members. For reasons similar to those stated above, Applicants respectfully assert that neither *Strecker* nor *Hlavka et al.* disclose all the words in claims 10-15. The *Miller* reference fails to overcome these deficiencies. Consequently, Applicants respectfully submit that claims 10-15 are patentable over the combination of *Strecker*, *Miller*, and *Hlavka et al.*, to the extent that such a combination is even possible.

Finally, in paragraph five the Examiner rejects claim 16 under 35 U.S.C. §103(a) as being unpatentable over *Strecker* in view of *Lenker et al.* (U.S. Patent 5,683,451). The Examiner argues that *Strecker* discloses the invention substantially as claimed except each channel having a longitudinal slot at the distal end of the delivery members. The Examiner further argues that *Lenker et al.* teaches using slots that expand upon release of a prosthesis, and thus it would have been obvious to modify *Strecker*'s delivery system to include *Lenker*'s slots. Applicants have amended claim 16 and now recites fixation components comprising a pair of piercing members tethered together by a tether, wherein the tether passes through the longitudinal slot of the delivery members. The *Lenker et al.* reference does not appear to teach a longitudinal slot. In view of the fact that *Lenker et al.* fails to overcome the deficiencies of *Strecker*, Applicants request the §103(a) rejection be withdrawn. Furthermore, since claims 17-20 are dependant on claim 16, Applicants respectfully assert that claims 17-20 are patentable over the cited references.

Conclusion

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that the claims are now in condition for allowance, and issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Date: December 22, 2008

/glenn m. seager/

Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050